

## **REMARKS**

### ***Summary of Office Action***

In the Office Action mailed on August 11, 2009, the Examiner objected to claims 12 and 33 for a typographical error and to claims 44 and 47 for being improper dependent claims. Regarding the substantive examination of the claims, the Examiner rejected claims 22, 31-40, 41, 42, 46, 47, and 50 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Additionally, the Examiner rejected claims 44 and 47 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Furthermore, the Examiner also rejected claims 44 and 47 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In addition, the Examiner rejected claims 1, 10-22, 31-44, 46, 47, and 49-53 under 35 U.S.C. § 112, second paragraph, as being indefinite. Finally, the Examiner rejected claims 1, 10-22, 31-43, 46, and 49-53 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,267,953 issued to Bernier et al. (hereinafter "Bernier") in view of a 2000 article by Braks et al. (hereinafter "Braks") U.S. Patent No. 3,220,921 issued to Greenbaum et al. (hereinafter "Greenbaum"), U.S. Patent No. 6,425,202 issued to Lin et al. (hereinafter "Lin"), and U.S. Patent No. 2,733,252 issued to Hawley et al. (hereinafter "Hawley"). No other issues were presented.

### ***Summary of Amendments***

Upon entry of the present Response to Office Action, Claims 1, 10, 12, 20, 22, 33, 41, 43, 46, and 51 will have been amended. Additionally, Claims 10, 11, 31, 32, 44, 47, 49, 50, and 53 will have been cancelled. As such, Claims 1, 12-22, 33-43, 46, 51, and 52 remain currently pending. By the present amendment, Applicant submits that the rejections have been overcome and respectfully requests reconsideration of the outstanding Office Action.

*Applicant's Response*

1. Objection to the Claims

In order to overcome the cited objections to the claims, Applicant has corrected the spelling in claims 12 and 33 from “cellulaeses” to “cellulases” and has cancelled claims 44 and 47. Thus, Applicant submits that the objections to these claims have been overcome.

2. Section 112 Rejections

The Examiner rejected Claims 22, 31-40, 41, 42, 46, 47, and 50 for failing to comply with the written description requirement. *Office Action, Page 3*. The Examiner asserts that the concept of isolating the enzyme from the microorganism (introduced in an amendment more than two years ago) is allegedly new matter. *Id.* The Examiner submits that the specification teaches that the enzymes can be excreted from the microorganisms. *Id.*

Although Applicant does not agree with the Examiner that the isolation of the enzyme is new matter (and believes under the concept of compact prosecution this rejection, if necessary at all, should have been raised long ago); however, in an effort to expedite prosecution, Applicant has amended the claims to recite “providing enzymes, wherein the enzymes are of a type excreted by microorganisms....” Applicant respectfully submits that this amendment overcomes the alleged failure to comply with the written description requirement and is fully supported by the originally filed specification, as the Examiner admits, at least in Paragraphs 0018, 0023, 0031, 0033, 0063, 0068, and 0069. Applicant respectfully submits that by the present amendment this rejection of the claims has been overcome.

The Examiner rejected claims 44 and 47 for failing to comply with the enablement and written description requirements. *Office Action, Pages 3 and 4*. By the present

amendment Applicant herein cancels claims 44 and 47, thereby negating the rejection of these claims.

Finally the Examiner rejected claims 1, 10-22, 31-44, 46, 47, and 49-53 as being indefinite. *Office Action, Page 5*. In particular, the Examiner submitted that the phrase “sub-products” is vague and indefinite; it is unclear how the microorganisms are “associated” with the skin of the vertebrate host; “transient” is a relative term; it is unclear to what the microorganisms are “resident”; and “generally” is a relative term with no comparison being made. *Office Action, Pages 5 and 6*.

Again, all of these claim terms have been present since the original filing of the application and Applicant believes the concept of compact prosecution dictates that any supposed indefiniteness rejection to them should have been brought long ago. Furthermore, Applicant respectfully submits that when read in view of the specification, these claims terms are adequately defined. However, in an effort to expedite prosecution, various amendments have been made to the claims to overcome these rejections.

In particular, “sub-products” has been amended to “enzymes.” Applicant respectfully submits that there is sufficient support throughout the specification to support this amendment, namely, at least in Paragraphs 0018, 0023, 0031, 0033, and 0068.

The claims have also been amended from “... the microorganisms being associated with a skin of the host vertebrate...” to “... the microorganisms are of a type found on the skin of the host vertebrate....” Applicant respectfully submits that there is sufficient support throughout the specification to support this amendment, namely, at least in Paragraphs 0030, 0063, and 0066.

Finally, claims 10, 11, 31, 32, 44, and 47 have been cancelled, thereby negating the rejections of these claims.

3. Section 103(a) Rejections

The Examiner submits that Bernier discloses attracting insects via a blend of chemical compounds. *Office Action, Page 7.* The Examiner admits, however, that Bernier does not teach using a glyceride or lard, microorganisms, that the microorganisms produce various enzymes, or that the microorganisms can be sterilized. *Id.* In order to overcome these deficiencies, the Examiner cites to Braks as disclosing that human sweat contains microorganisms and that mosquitoes are attracted to human sweat that has enhanced microbial growth. *Id.* Furthermore, the Examiner admits that Braks teaches that “the production of compounds that are attractive to mosquitoes is probably due to the skin bacteria processing sebum substrates.” *Office Action, Page 8.*

The Examiner submits that it would have been obvious to one of ordinary skill in the art to use lard as an attractant for mosquitoes, to combine lard and human sweat to make an attractant since each is an attractant on its own and would have an additive effect, and to substitute the proposed lard/sweat combination for the chemical blend in the traps taught by Bernier since sweat and lard are known attractants. *Office Action, Pages 9 and 10.*

As of the current amendment, all of the pending independent claims contain language similar to the following: “A method of producing a vertebrate host mimic ... comprising the steps of: a. providing a lipid based media, wherein the lipid based media consists of lard; b. providing microorganisms, wherein the microorganisms are of a type found on the skin of the host vertebrate and operative to excrete enzymes which modify the media upon combination with the lipid based media to produce modified lipid based media; c. combining the lipid based media and the microorganisms; and d. collecting the modified lipid based media.” Alternatively, the enzymes themselves can be provided instead of the microorganisms and/or a glyceride can be used in place of lard.

As can be seen, all of Applicant's claims are either methods of production or contain a product-by-process component. Accordingly, what needs to be examined are these steps of

production. Notably, Applicant's claims absolutely require combining a lipid based media consisting of only lard or a glyceride with microorganisms of a type found on the skin of the host vertebrate and operative to excrete enzymes which modify the media (or the excreted enzymes themselves in place of the microorganisms), and collecting the modified lipid based media. Applicant respectfully submits that none of the cited references, alone or in any proper combination, teach or suggest these steps.

In stark contrast, the attractant of Bernier absolutely requires a synergistic blend of a formula I compound and a group II compound, whereas Applicant's claims use only a single lipid chosen from either lard or a glyceride. Furthermore, Braks discloses that human sweat can be used as an attractant because the skin bacteria process sebum substrates found on the skin. Accordingly, Braks is understood to disclose that human sweat can be used as an attractant because naturally occurring skin bacteria process naturally occurring substrates found on human skin. However, none of the cited references are understood to teach or suggest combining non-naturally occurring lard (or glycerides) with microorganisms of the type found on the host skin to produce a modified lipid suitable for use as a vertebrate host mimic. Furthermore, Braks is not understood to teach or suggest that enzymes produced from the microorganisms, rather than the microorganisms themselves, would provide any functionality in creating a vertebrate host mimic.

In summary, Applicant is not using a combination of attractants (and particularly not sweat as one of the attractants), as submitted by the examiner, but rather is utilizing a novel and non-obvious method to modify lard (or a glyceride) to create an improved vertebrate host mimic. Applicant's claims never recite the use of sweat, as is taught by Braks, nor do Applicant's claims recite the use of a synergistic combination of attractants, as is taught by Bernier.

As such, it would appear that Applicant's independent Claims 1, 20, 22, 41, 43, and 51 have not been shown to be obvious in light of the cited prior art references and the 35 U.S.C. § 103(a) rejections should be withdrawn.

Applicant further submits that the Claims 12-19, 21, 33-40, 42, 46, and 52 are allowable at least for the reason that these claims depend on allowable independent Claims 1, 20, 22, 41, or 51 and because these claims recite additional features that further define the present invention.

*Conclusion*

Applicant respectfully submits that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. §§ 112, 102, and 103, and respectfully requests that the Examiner indicate allowance of each and every pending claim of the present invention.

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious Applicant's invention as recited in each of Claims 1, 12-22, 33-43, 46, 55, and 52. The references of record have been discussed and distinguished, while significant claim features of the present invention have been pointed out.

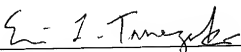
Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: 2/11/10

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